# Independent Democrat.

TERMS, $3, "FREE TRADE; LOW DUTIES; NO DEBT; SEPARATION FROM BANKS; ECONOMY; RETRENCHMENT; AND STRICT ADHERENCE TO THE CONSTITUTION." In Advance.

Volume 1. CANTON, MISSISSIPPI, SATURDAY EVENING, JANUARY 7, 1843. Number 17.

**The Independent Democrat,**

IS EDITED AND PUBLISHED EVERY SATURDAY,

**BY JOHN HANDY.**

TERMS.—*Three Dollars, invariably* in advance. Persons wishing to discontinue will please give notice thereof in writing

No subscription received for a less time than six months.

Advertisements inserted at the rate of *One Dollar* per square, (ten lines or less,) for the first insertion, and *fifty cents* a square for each continuance.

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*From the N. Y. Journal of Commerce.*

## DISTRIBUTION.

Those who advocate the Distribution of the proceeds of the public lands among the several States, instead of applying them to the common expenditures of the U. States, rely chiefly on the claim of title. They insist that these lands do not belong to the United States, but are the property of the several States—that they were given in trust to pay the national debt incurred by the revolutionary war, and as that debt is extinguished, their proceeds now enure to benefit of the individual States, and cannot, in justice, be applied to the national expenditures.

To ascertain the soundness of the sentiment, recourse must be had to the national records. There we have the stipulations on both sides—the conveyances by the States, on the one part, and the nation's solemn pledge, how they should be appropriated, on the other.

That portion of the public domain which was granted by individual States, was given by Massachusetts, Connecticut, New York, Virginia, South Carolina and Georgia. To these six States the Union are indebted for all the public lands which lie within the original boundaries of the United States.

On the 6th day of September, 1780, anterior to any of the grants except that of New York, Congress passed an act in which they "recommended to the several States in the Union having claims to waste and unappropriated lands in the Western country, a liberal cession to the United States of a portion of their respective claims *for the* COMMON *benefit of the Union.*" Soon afterwards, on the 10th day of October in the same year, they passed a resolution containing a repetition of the pledge in these words: "*Resolved*, that the unappropriated lands that may be ceded or relinquished to the United States, by any particular State, pursuant to the recommendation of Congress of the 6th day of September last, *shall* be disposed of *for the* COMMON *benefit of the U. States.*"

Thus the national faith was twice solemnly pledged to appropriate the proceeds of all future grants for the *common* benefit of the *Union*, and not the *several* use of the *individual States.*

On the 1st day of March, 1780, the state of New York made the first grant of Western territory to the United States, by James Duane and others, their agents, in pursuance of a previous act of their Legislature, passed before the Federal alliance was fully perfected. The enactment was that the territory to be ceded or relinquished by virtue of that Act "shall be and enure for the use and benefit of such of the *United States* as shall become members of Federal alliance of the said states, *and for no other use or purpose whatsoever.*" The agents recite the language of this act and make the conveyance commensurate with its terms. Now, to whose benefit did all the right and interest, thus granted, enure? The deed answers to that of the "*United States.*" The grant contains no intimation that any *several* interest was ever to vest in the States, but expressly negatives such a claim. It not only declares that the title shall enure "for the use and benefit of the *United States*," but adds the *negative* declaration, "and for *no other* use or purpose whatsoever." The ablest conveyancer could not devise language more explicit, to vest the title and proceeds of these lands in the *Union*, and repel all claim for a several interest or distribution.

In the Preamble to this Act, it is, indeed, stated as one *motive* to making the grant, that whereas the articles of confederation and perpetual Union recommended by the honorable Congress of the United States of America, have not proved acceptable to all the States, it having been conceived that a portion of the waste and uncultivated territory within the limits or claims of certain States ought to be appropriated as a *common fund* for the expenses of the war, and the people of this State being, on all occasions, disposed to manifest their regard for their sister States and earnest desire to promote the general welfare," &c. From this it has been inferred, that as the debt incurred by the revolutionary war is paid, the subject of the grant is satisfied, so far as the United States are concerned, & their title consequently terminated. If this construction of the grant were sound it would not only divest the United States of all further claim on the lands granted by the State of New York, but all others, if any there were, who should claim title under the same conveyance; and would be, as to that property, a conclusive argument against distribution. If the grant were thus limited, it would be in the nature of a mortgage with power of sale, and the title to the surplus, which should remain unsold after the debt was satisfied, would revert to the grantors; so that neither the United States could claim any further right in the land, but it would re-vest exclusively in the State of New York. Nothing could be more fatal to the advocates of distribution than their own argument derived from this consideration. But the argument itself is groundless, for the terms of the deed convey the whole to the "*United States*," without limitation or condition. Fortunately for those by whom this argument is employed, there is nothing in either of the other grants which lays any foundation for such a sophism.

The next grant, in the order of time, is that of Virginia. The Legislature of this State, at their session held on the 20th of March, 1783, authorized their delegates in Congress to grant to the United States the lands lying north-west of the river Ohio, in express compliance with the above mentioned recommendation of Congress, of Sept. 6, 1780, "*for the* COMMON *benefit of the Union*," and they enact that the lands so granted, except certain reservations, "shall be considered as a COMMON FUND for the use and benefit of such of the *United States* as have become or shall become members of the confederation or federal alliance, of the said States, Virginia inclusive, according to their respective proportions in the *general charge and expenditure*, and shall be *faithfully* disposed of for that purpose, *and for no other use or purpose whatsoever.*" Pursuant to this authority and direction, Thomas Jefferson and others, the delegates of that State in Congress, reciting the act, convey that territory *to the United States*, "for the uses and purposes and on the conditions of the said recited act."

Nothing can be more explicit than this grant. It first refers to the invitation given by Congress, to convey the lands "for the *common* benefit of the *Union*." The grant is for the benefit and use of the *United States*. This would be enough. But as if to exclude the idea of any distribution or several right in the States, if it is to be a "*common* fund—for the *general* charge and expenditure, and for *no other use or purpose* whatsoever." What could be a more direct violation of this grant, and of the pledges given by Congress in 1780, than the second Section of the distribution law, which gives to the several States the revenues arising from those lands, "to be applied, by the Legislatures of said States, to such purposes as the said Legislatures may direct." Monies which, by the clear terms of the gift on the one part, and the national pledge on the other, were sacredly secured as a common fund for the *United States* for the *general* charge and expenditure, and *no other purpose*, are abandoned. The States are authorized to apply them to the payment of the salaries of State officers, the support of the poor, the erecting of jails and court houses, and any other object with which the nation has no concern, however private or local.

The next cession, in the order of time, was from the State of Massachusetts, pursuant to an act of their Legislature of November 13th, 1788. By that act of their delegates in Congress were authorized "to cede or relinquish the land belonging to that commonwealth, lying between the river Hudson and Mississippi to the United States, to be disposed of for the *common benefit* of the same, agreeably to a resolve of Congress of October the 10th, 1780." To this resolve I have already adverted. Its very terms, and those of this act of Massachusetts clearly express the mutual understanding, that the whole shall vest in the United States, and restrict the appropriation of the proceeds to their common benefit.

In May, 1786, the Legislature of Connecticut enacted, "that the delegates of this State or any two of them, who shall be attending the Congress of the United States, be and they are hereby directed, authorized and fully empowered, in the name and behalf of this State, to make, execute, and deliver, under their hands and seals, an *ample* deed of release cession of *all* the right, title, interest, jurisdiction and claim of the State of Connecticut to certain Western Lands—"whereby all the right, title, interest, jurisdiction, and claims of Connecticut, shall be released and ceded to the United States in Congress assembled, for the common use and benefit of the said States, Connecticut inclusive." The conveyance thus authorized was made on the 13th of September following, in terms as ample as those in the act; and certainly no language could render the title of the United States more absolute and conclusive.

In 1800 a controversy existed between Connecticut and New York in relation to certain lands lying within the present limits of the latter State, known by the name of *The Gore*. Some doubt too, was entertained by Connecticut, whether the United States might not claim a title superior to their own, in a tract lying West of Pennsylvania, and by them reserved in the cession of 1786. In order to remove the claim of Connecticut to the Gore, and that of the United States to the Western Reserve, Connecticut released the right to all lands lying West of the East line of New York, excepting the Reserve; and received from the United States a release of claim upon the latter territory. The *absolute* title of the United States to the lands ceded in 1786, was, by this arrangement, ratified and confirmed, and the claim of Connecticut to the Gore was abandoned. [See laws of the United States, vol. 1, page 485, and vol. 3, page 364. Edition of 1815.]

The Legislature of South Carolina, on the 8th day of March, 1787, passed an act, authorized their delegates in Congress to cede the lands therein described, "*to the United States*," in compliance with the recommendation of Congress of September 6, 1780, "*for the common benefit of the Union*," which was carried into effect on the 9th of August following.

On the 24th of April, 1802, an agreement was made by commissioners appointed by the United States and the State of Georgia, by which the terms arranged, on which the territory owned by Georgia, West of its present limits, should be ceded to the National Union. The definition of title is in these words: "That all the lands ceded by this government to the United States, shall after satisfying the above mentioned payment of one million two hundred thousand dollars to the State of Georgia, and the grants recognized by the preceding conditions, be considered as a "common fund for the use and benefit of the United States, Georgia included, and shall be faithfully disposed for that purpose, and for no other use or purpose, whatsoever."

These several grants constitute the title of the United States in all the western lands which lie within what were then our national boundaries. Had the United States done nothing more than silently and passively accept those cessions, their terms are such as would vest an absolute title in the National Union. There is no where a hint or intimation, that either the lands or their proceeds should ever become the several property of the States. To those who know the terms of these conveyances, the most hardy insolence is requisite to enable them to assert that they convey any right whatever; present or future, except a title exclusively national. All are sufficiently express, but several of them are guarded, among others that of North Carolina, (which alone was made before the solemn pledges of the nation) with negative words, prohibiting any application of the proceeds, except for the *common use and benefit.* The terms of all are such as to constitute a trust for the exclusive use of the national Treasury, which can never be honestly violated. The mere acceptance of the lands involved an implied promise that their avails should never be divested from those objects of expenditure for which the United States are bound to provide. For this purpose exclusively, they were given and accepted. This alone would be enough to stigmatize every act of distribution as a violation of good faith; because the terms on which these bounties are bestowed, are most explicitly stated in every conveyance.

But there is another and explicit obligation on the United States not to give away the proceeds of these public lands. By the act of Congress of September the 6th, and October the 10th, 1780, assurances were given by the nation which bind it forever. They first request these donations "for the common benefit of the United States," and the second promises, that the lands thus given, "shall be disposed of for the common use and benefit of the United States." In direct violation of this promise, the second section of the Distribution Law gives the proceeds of these lands to the States, to be appropriated as their legislatures may direct. Thus the trust is wholly abandoned. The lands are no longer "disposed of for the common use and benefit of the United States;" but are disposed of for the general benefit of the individual States. Instead of applying them them to national objects for which they have a constitutional right to impose taxes and raise revenue from the people, give them wholly away, abandon all power of appropriation, and authorises the States to divert them from every object of national interest or concern. If this is not a violation of good faith, what can be? So far from being true, that these lands are the property of the States and not of the United States exclusively, and the proceeds, when they are sold cannot even be given to the individual States, so as to to alienate the disposition of them from the common use of the nation.

But this argument grounded on the supposed right of the several States to the proceeds of the lands ceded to the United States within our original boundaries false as it is, would, were it true, be utterly insufficient to justify the Distribution Act. That Act expressly prescribes, that not only the proceeds of the lands ceded to the nation by the States shall be distributed, but of those also which lie within the States and Territories West of the Mississippi, and in Florida. Its principles extends over the immense domain between the Mississippi and the Pacific Ocean on the West, and between the 31st degree of North latitude and the Gulf of Mexico on the South. Do these vast regions belong to the several States, or to the Union in its national capacity? They were bought of France and Spain by the United States, and paid for out of the National Treasury. Examine the conventions made with France in 1763, and the treaty made with Spain in 1819 and point to a sentence by which this pretence can be sustained. Fifteen millions and its interest, amounting to more than twenty-three millions and a half in the whole, was paid for the purchase, to France; and five millions with interest, amounting to about six and a half millions in all, was paid to Spain; all from the national treasury.—Do not the proceeds belong to the treasury from which the purchase was made? Is not the title of the United States to whom it was granted? Their title to the capitol at Washington or to the navy yards, custom-houses, and other national property, is not more exclusive.

It thus appears uncontrovertibly, that the monies arising from the sale of all these, whether granted by the States or purchased of foreign nations, belong as exclusively to the treasury of the United States as the revenues arising from duties or direct taxes. The distribution of the whole, after being placed in the national treasury, might be demanded with equal propriety.

It is to be regretted that distinguished men have advocated distribution on the ground of the *title* of the several States to this portion of the public money. They deal only in empty declamation, without daring to appeal to a single document on which the public title rests. One of the most remarkable instances of this is the report made by ex-President Adams on the Veto. He says that "Mr. Tyler speaks of the distribution as if it was giving away the property. It is precisely the reverse. It is restoring it to its owners." How rash and palpably erroneous is this proposition! It seems to admit no apology when coming from a man so distinguished for his political knowledge. The Whig Convention of *young men* at Auburn, are more excusable for uttering the same assertion. But politicians reiterate it in speeches in Congress, in political addresses and newspaper articles, until people are deluded by its perpetual repetition; and made to believe, honestly, that the proceeds of the public lands actually belong to the States and not to the United States, although their title is demonstrated to every mind of common sense, whenever resort is had to the instruments which created it. But these are unknown to most of those vast numbers who assert and believe the error. I have presented this title, as briefly as I could, to the public eye, and ask, with confidence, whether it is not indisputably clear.

Not only is the title clear, but to divert from the National expenditure, the proceeds of the lands granted by the States, is a violation of the condition on which they were given, and of the solemn pledge of the nation that they "should be disposed of for the *common* benefit of the United States." Not only is their distribution unauthorized, but positively forbidden.—Even if considerations of policy could be urged in its favor, they would be unavailing; as clear condition and solemn stipulations have unalterably fixed the appropriation of their proceeds.

It has been insisted that the United States as they existed under the confederation, were another and distinct body politic from the United States as existing under the present constitution, and that upon the dissolution of the former confederacy, the rights which they possessed vested in the several States, and not in the present Union. This is groundless. The prominent object was not to constitute a new Union, but in the preamble to the constitution is declared "to form a more perfect Union." The Union is still the same. Under the confederation the national faith was pledged to dispose of the lands, which should be given by the States for the common benefit of the United States and the sixth article of the present constitution, to remove all doubt as to the obligation of the United States to fulfil such engagements, declares: "That all debts contracted and engagements entered into, before the adoption of this constitution shall be as valid against the United States, under this constitution, as under the confederation." Each State and the people of the United States have a right to claim the fulfillment of that obligation, and their claim is irrevocably confirmed. The same right is distinctly recognized in regard to the sale of the public lands in the third section of the fourth article. It provides that "The Congress shall have power to dispose of, and make all needful rules and regulations respecting the territory and other property belonging to the United States; and nothing in this constitution shall be so construed as to prejudice any claims of the United States." Lest this general power of disposition, and of making rules and regulations regarding the territory and other public property, or some other general provisions of the constitution, should be considered as impairing or varying the tide specified in the grants, or the claim to a just fulfillment of the stipulations on the part of the United States, this confirmation of all existing claims is inserted in the same clause. The new organization of the government, therefore, has not abolished, but confirmed the national title to these lands, and the obligation to dispose of them for the common benefit of the United States, as promised by Congress, when requesting from the States these dangerous donations, and as provided in several deeds of cession.—While the States, by a provision universal in its extent are prohibited from passing "any law impairing the obligation of contracts," Congress is disabled from impairing any obligation of the United States, entered into before the adoption of the constitution, and all public claims are especially protected from invasion in the exercise of the power to regulate and dispose of the territory and property belonging to the United States."

If the United States were amenable to a judicial tribunal, and if an application were made in equity or other proper form, for the distribution of the proceeds of the public lands among the several States, could any doubt be entertained of the national title? If any of the distinguished jurists, who, as politicians, say these proceeds cannot lawfully be retained in the national treasury, were upon the bench, would they, on a perusal of the treaties and other documents which compose the title, find either that they never vested in the United State to whom alone they were granted; or that the States, by subsequent events, had become their owners, when the title conveyed to the nation is unconditional and perpetual? Would they compel the United States to surrender the money, and not appropriate it to the common benefit of the Union, but to the States to be applied to any other use whatsoever, contrary to the pledge of October the 10th, 1800, given by Congress? Would they hold that the national "engagement" thus assumed under the confederation, is not obligatory under the present constitution, when every such "engagement" is expressly ratified by the sixth article of the constitution itself? And is it right for an enlightened jurist, as a politician, to advance an opinion which he would condemn when acting as a judge?

AMERICANUS.

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From the Columbus (Ohio) Statesman.

RHODE ISLAND—COONERY—NEGRO VOTING—FREE SUFFRAGE—NATURALIZED CITIZENS.

There is hardly a day passes but what adds some new light upon the remarkable doctrines and practices of the federal coon party. We are astonished and surprised that a party holding such doctrines, should organize in a country like ours with the hope of success—and still more astonishing that they should find as many followers as they do; but there is delusion in the world on other subjects than politics, and we must prepare to meet, and counteract its errors by exposing it. We find in the *New York Tribune*, a leading daily coon paper of that city, the following extraordinary announcement:

"RHODE ISLAND.—The voting on the adoption of the new Constitution commenced on Monday, and will conclude today. On Monday Providence gave 918 votes for, and none against the legal Constitution. We rejoice to state that it gave 815 votes for, and only 51 against, allowing colored persons to vote the same as whites. In 13 towns there were 2,210 votes for, and only 3 against adopting the Constitution; the Dorrites consistently refusing to vote. (Had they done so last spring, much expense and trouble would have been saved.) In 9 towns there were 1,072 votes for, and 324 against, admitting blacks to vote, and there seems little doubt that all distinctions founded on color will be discarded. We trust that the Rhode Islanders, having learned that a colored man's vote will not prejudice the public welfare, even though he owns no land, will not be slow to learn that an adopted citizen may also safely be trusted with political power."

There are some rich whig doctrines in this paragraph, and they should awaken even the better part of the followers of the coons into a sense of shame and indignation.

In the first place, we would state that the suffrage party do not vote at all on the humbug of a constitution presented to them. The voting is exclusively among the Algerines, the enemies of a poor white man voting at all, and more especially if he happens to be a naturalized *foreigner*, who, under this pretended liberal constitution, is deprived of a vote. But the *Tribune*, this great federal coon organ of the city of New York, whose flag waves at its mast head for HENRY CLAY, who holds *negroes in bondage*, rejoices that 815 of the Algerine coons of Providence voted to permit blacks and mulattoes to "free suffrage," and only 51 could be found to vote against it! Yet this very constitution, on which the friends of Governor Dorr refuse to vote either for or against, claiming that they have already adopted a constitution and organized a government under it, but put down by the Algerines and negroes combined, prohibit foreigners to vote, tho' naturalized! And this, the coon papers tell us, in all parts of the country, is a *liberal* constitution! "*All distinctions founded on color will be discarded*," says the Tribune, who *very consistently* waves the name of HENRY CLAY at its mast head, who claimed negroes as *property* in his Mendenhall speech at Richmond, Indiana.

But the most extraordinary act of self-complacency is where the *Tribune* very modestly insinuates to its Algerine brethren of Rhode Island, that, after they have made the *experiment* on extending "free suffrage" to the *negroes*, he hopes that they will come to the conclusion that there is not so much danger of permitting *foreigners* to vote as they now apprehend! Try the experiment of free suffrage on *negroes*, and, if it works well, then these federal coons will discuss the propriety of extending free suffrage to naturalized foreigners, also! Was there ever such bold and daring insults offered to common sense since the declaration of Independence spread its hallowed light upon mankind? Is there a man in the whole Union, who happened to be born on the other side of the Atlantic, where our fathers and grandfathers came from, who, after this, would degrade himself by voting with a party holding such monstrous and infamous doctrines as these? What say the numerous and intelligent Welchmen of this city, who have been in the habit, heretofore of voting the federal coon ticket? Will they submit to be placed in a lower scale of human existence than the negro, or act with a party that proffers the right of suffrage to the liberated slave, and withholds it from their own kindred blood because they happened to be born in the same clime as the forefathers of this same anti-republican and piratical party on the rights of the white man?

These, we suppose, are the degrading terms to which whiggery is to submit, in its new coalition with abolitionism as a political party. It is even going further than the abolitionists themselves, in Ohio, have professed to go heretofore. But as the coon organs have voluntarily proposed a union of their forces, we suppose the abolitionists are determined to get all out of them they can in the contract. Will the whig party of Ohio be satisfied to sustain such doctrines and such coalitions in the contract for abolition votes? We shall see.

One word as to the *liberality* of the constitution offered by the Algerines of Rhode Island to the people of that degraded State. We copy from the Providence Express, which says that it gives some of the reasons why the suffrage party will not consent to the Algerine constitution. *Read and blush for Whiggery!* It says:

"Although we are decidedly opposed to the old charter, we have no hesitation in saying that we had much rather live under it some years longer than to have the constitution now before the public saddled upon us. Our reasons are numerous. We will mention a few of the most decisive of them, in our view against it.

"This instrument establishes a system of representation in the Senate so unequal that *less than one quarter* of the inhabitants of the State will elect a considerable majority of the Senators. Besides, a Senate consisting of *thirty-one* members will be unnecessarily expensive for this small State.

The old Senate is a popular branch of moderate expense.

The proposed constitution pretends to make the House of Representatives a popular branch, as an offsett to the extreme inequality above mentioned, but though it makes it more according to the population than the Senate is, still it is not sufficiently so for an adequate offset. Some towns are still extravagantly *over* and others are extravagantly *under* represented.

"The combined inequality of representation in both branches, (as figures will show) puts the power of ruling the whole State into the hands of about *one-third* of the qualified voters in the State. This is certainly no improvement upon the old charter system. But the most objectionable feature, perhaps, of this new instrument is an article on amendments. This is so contrived that no change for the better can ever be made without the vote in each House of a majority of all the members of each *twice* elected to each—twice obtained in each; and in addition to these majorities a vote of *three-fifths* of all the qualified voters in the State, voting on the proposed amendments.

This article will, in our opinion, render any further change in this inequality of representation next to impossible; for how can a majority of both Houses be twice obtained in favor of giving up a portion of their own power and their own interest in that power."

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The London Morning Chronicle, says, Slave-holders in America make a practice of feeding swine with the dead bodies of their negroes.—*New Orleans Republican.*

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The Bank of Augusta has declared a dividend of two dollars per share on its capistock.